

Message Text

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TO AMEMBASSY BUDAPEST PRIORITY

C O N F I D E N T I A L STATE 310279

EXDIS

E.O. 11652: XGDS-1

TAGS: EEWT, PGEN, HU, US

SUBJECT:MFN AND EMIGRATION ASSURANCES

REF: (A) STATE 264777;(B) BUDAPEST 3818;(C) BUDAPEST 4358

1. SUMMARY: WHILE WE CAN RESPOND POSITIVELY TO CERTAIN ASPECTS OF THE HUNGARIAN COUNTER-PROPOSAL ON EMIGRATION ASSURANCES, THE ASSURANCES LANGUAGE THEY HAVE PROPOSED IS NOT RPT NOT ACCEPTABLE IN ITS PRESENT FORM.

2. WE WELCOME CERTAIN ASPECTS OF THE HUNGARIAN PROPOSAL, INCLUDING THEIR DESIRE TO MAKE THE EMIGRATION ASSURANCES PUBLIC. WE CAN ALSO ACCEPT THE PROPOSAL THAT THE ASSURANCES SHOULD CITE THE HELSINKI FINAL ACT AND
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SHOULD BE GIVEN BY BOTH PARTIES. HOWEVER, THE CSCE'S FINAL ACT CONTAINS PROVISIONS ON DIVIDED FAMILIES BUT DOES NOT RPT NOT CONTAIN GENERAL PROVISIONS ON EMIGRATION PER SE.

3. HOWEVER, PRINCIPLE SEVEN OF BASKET ONE OF CSCE PROVIDES THAT QUOTE IN THE FIELD OF HUMAN RIGHTS AND

FUNDAMENTAL FREEDOMS THE PARTICIPATING STATES WILL ACT

IN CONFORMITY WITH THE PURPOSES AND PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS AND WITH THE UNIVERSAL DECLARATION OF HUMAN RIGHTS UNQUOTE. THE UNIVERSAL DECLARATION, ARTICLE 13, PARAGRAPH 2, PROVIDES THAT QUOTE EVERYONE HAS THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY UNQUOTE.

4. THIS INCORPORATION BY REFERENCE OF THE EMIGRATION PROVISION OF THE UNIVERSAL DECLARATION INTO THE CSCE FINAL ACT IS TOO ATTENUATED FOR JACKSON-VANIK PURPOSES. MOREOVER, CSCE FOLLOW-UP ACTIVITIES HAVE IN THE PAST NOT GENERALLY FOCUSED ON THE RIGHT OF EMIGRATION IN GENERAL FOR PURPOSES OTHER THAN FAMILY REUNIFICATION, ALTHOUGH THE US HAS RECENTLY BEGUN STRESSING THE FINAL ACT'S INDIRECT COMMITMENTS ON EMIGRATION IN GENERAL. STILL, THE FOCUS OF MOST WESTERN PARTICIPANTS AT THE BELGRADE CONFERENCE HAS BEEN ON IMPLEMENTATION OF THE SPECIFIC PROVISIONS OF THE CSCE ITSELF RATHER THAN ON IMPLEMENTATION OF INDIRECTLY INCORPORATED PROVISIONS. THE TREATMENT OF CSCE CONNECTION WITH EMIGRATION OUTSIDE THE DIVIDED FAMILIES CONTEXT THUS REMAINS TOO REMOTE AND INDIRECT.

5. WE BELIEVE THAT HUNGARIAN PROPOSAL WOULD BE LEGALLY CONFIDENTIAL

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SUFFICIENT IF IT COULD BE AMENDED TO INCLUDE A DIRECT REFERENCE TO UNIVERSAL DECLARATION AS WELL AS TO THE CSCE FINAL ACT. WE PROPOSE THE FOLLOWING COMPROMISE LANGUAGE: QUOTE CONCERNING CASES OF EMIGRATION, BOTH PARTIES UNDERTAKE TO ACT IN ACCORDANCE WITH THE LETTER AND SPIRIT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE FINAL ACT OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE UNQUOTE.

6. REGARDING RECIPROCITY (PARA 2C, REFTEL C), IT IS NOT CLEAR IN WHAT CONTEXT THE HUNGARIANS RAISE THIS POINT. SINCE THE FINAL ACT WAS SIGNED, THE UNITED STATES HAS REJECTED ANY NOTION THAT COMPLIANCE BY ONE SIGNATORY COUNTRY TO PARTICULAR HELSINKI PROVISIONS CAN BE RECIPROCAL, I.E. CONDITIONAL UPON COMPLIANCE BY ANOTHER. THUS SPECIFIC LANGUAGE CALLING FOR US-HUNGARIAN "RECIPROCAL" COMPLIANCE WITH FINAL ACT PROVISIONS WOULD BE UNACCEPTABLE.

7. WE RECOGNIZE AND ACCEPT HUNGARY'S PREFERENCE THAT ANY PUBLIC DOCUMENT ON EMIGRATION ASSURANCES BE PHRASED NEUTRALLY, SO THAT HUNGARY DOES NOT APPEAR TO HAVE MADE ASYMMETRICAL CONCESSIONS TO THE UNITED STATES. THE

LANGUAGE WE HAVE PROPOSED IN PARAGRAPH 5 ABOVE IS SUCH
A NEUTRAL FORMULATION. HOWEVER WE MUST DISTINGUISH BETWEEN

A NEUTRAL FORMULATION AND A RECIPROCAL COMMITMENT.
THE EMBASSY SHOULD MAKE CLEAR TO THE HUNGARIANS THE USG
VIEW THAT THE PROPOSED LANGUAGE REAFFIRMS THE FINAL
ACT FOR BOTH PARTIES, DOES NOT DEROGATE FROM THE
UNDERTAKINGS MADE BY THE PARTIES IN THE CSCE
MULTILATERAL FORUM, AND WOULD NOT PERMIT EITHER PARTY
TO CITE THE OTHER PARTY'S NONCOMPLIANCE AS AN EXCUSE FOR
ITS OWN NONCOMPLIANCE.

8. ACTION REQUESTED: THE EMBASSY SHOULD RESPOND
POSITIVELY TO THE HUNGARIAN DESIRE TO MAKE THE ASSURANCES
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PUBLIC AT SOME APPROPRIATE TIME AND TO THE HUNGARIAN
REQUEST TO CITE THE CSCE FINAL ACT. IF THE HUNGARIANS
RAISE THE QUESTION OF RECIPROCITY, THE EMBASSY SHOULD
CLARIFY THAT WHAT THEY MEAN BY QUOTE RECIPROCITY UNQUOTE
DOES NOT CONFLICT WITH USG CSCE PHILOSOPHY. FURTHER,
THE EMBASSY SHOULD CONVEY TO THE HUNGARIANS THE PROPOSED
LANGUAGE CITING THE UNIVERSAL DECLARATION OF HUMAN
RIGHTS AS WELL AS THE CSCE FINAL ACT.

9. WITH RESPECT TO TIMING, YOU MAY INFORM THE GOH THAT,
PROVIDED THEY CAN ACCEPT OUR PROPOSED REVISION, WE
BELIEVE THE PLANNED MEETING BETWEEN SECRETARY VANCE
AND FOREIGN MINISTER PUJA ON JANUARY 7 WOULD PROVIDE
AN IDEAL OPPORTUNITY TO CONFIRM THE ACCEPTANCE BY BOTH
SIDES OF THE ASSURANCES. WE SUGGEST FURTHERMORE THAT
AT A LATER DATE THESE ASSURANCES BE INCORPORATED IN AN
EXCHANGE OF LETTERS BETWEEN THE AMBASSADOR AND PUJA.
WE WOULD EXPECT TO CARRY OUT THIS EXCHANGE AND TO MAKE
IT PUBLIC WHEN WE APPROACH THE TIME FOR SUBMISSION OF
A FULLY NEGOTIATED TRADE AGREEMENT TO THE CONGRESS.
WE WOULD ALSO ANTICIPATE INFORMING KEY CONGRESSIONAL
MEMBERS AND STAFF OF THE ASSURANCES IN ADVANCE OF THAT
TIME. CHRISTOPHER

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